

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: August 18, 2004

Division: Growth Management

Bulk Item: Yes No X

Department: Planning Department

AGENDA ITEM WORDING: A public hearing to consider an Amendment to the Future Land Use map (FLUM) and the Land Use District (Zoning) Map, for Key Largo Ocean Resort Co-op, Inc., to amend the FLUM from Mixed Use/ Commercial (MC) to Residential High (RH) and to amend the Land Use District (Zoning) Map from Improved Subdivision (IS) and Recreation Vehicle (RV) to Urban Residential Mobile Home (URM). [Second of two public hearings; adopt both ordinances].

ITEM BACKGROUND: The first public hearing or "transmittal hearing" was held on November 19, 2003. At that meeting the BOCC recommended approval for both the FLUM Amendment and the corresponding Rezoning Amendment. The Planning Department, upon instruction from the BOCC, transmitted the proposed amendments to the Department of Community Affairs (DCA) for consideration. On July 1, 2004, the DCA notified the BOCC that they had reviewed and raised no objections to the proposed amendments.

PREVIOUS REVELANT BOCC ACTION: Adopted Transmittal Resolution 523-2003 on November 19, 2003.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes No

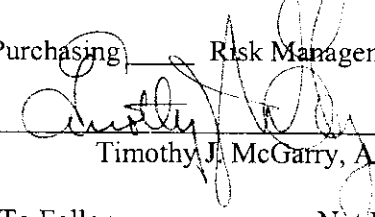
COST TO COUNTY: N/A

SOURCE OF FUNDS N/A

REVENUE PRODUCING: Yes No X **AMOUNT PER MONTH** **Year**

APPROVED BY: County Attorney X OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:


Timothy J. McGarry, AICP

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM # 07

YMC

PROPOSED FUTURE LAND USE AMENDMENT
MIXED USE/ COMMERCIAL (MC)
TO RESIDENTIAL HIGH (RH)
&
PROPOSED LAND USE DISTRICT (ZONING) AMENDMENT
IMPROVED SUBDIVISION (IS)
AND RECREATIONAL VEHICLE (RV)
TO URBAN RESIDENTIAL MOBILE HOME (URM)

THE REQUEST FILED BY THE APPLICANT TO AMEND THE FUTURE LAND USE MAP DESIGNATION FROM MIXED USE/ COMMERCIAL (MC) TO RESIDENTIAL HIGH (RH) AND CHANGE THE LAND USE DISTRICT (ZONING) MAP FROM IMPROVED SUBDIVISION (IS) AND RECREATIONAL VEHICLE (RV) TO URBAN RESIDENTIAL MOBILE HOME (URM) FOR PROPERTY LOCATED ON KEY LARGO AND IS FURTHER DESCRIBED AS SOUTHCLIFF ESTATES, PB-2-45 KEY LARGO, PART OF TRACT. 9-10-11 (14.65 ACRES); PART OF LINE ROAD (.75 ACRES); PART NE 1.4 of SE 1.4 (5.1 ACRES); PART GOV. LOT 3 (.6 ACRES); AND ADJACENT BAYBOTTOM (5.22 ACRES). IT CONSISTS OF A TOTAL OF 18.93 ACRES. PARCEL 2, LEGALLY DESCRIBED AS SOUTHCLIFF ESTATES PB2-45 KEY LARGO, MONROE COUNTY, FLORIDA. REAL ESTATE NUMBERS 00483400.000000 AND 00483390.000000.

FUTURE LAND USE RECOMMENDATIONS

Staff:	Approval	June 19, 2003	Staff Report
DRC:	Approval	July 11, 2003	Resolution # D25-03
PC:	Approval	September 24, 2003	Resolution # P67-03
BOCC:	Approval	November 19, 2003	Resolution #523-2003

ZONING RECOMMENDATIONS

Staff:	Approval	June 19, 2003	Staff Report
DRC:	Approval	July 11, 2003	Resolution #D03-02
PC:	Approval	September 24, 2003	Resolution #P68-03
BOCC:	Approval	November 19, 2003	Resolution #523-2003

BOCC Ordinance to Amend the Future Land Use Map (FLUM)

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS **APPROVING** THE REQUEST BY KEY LARGO OCEAN RESORT TO AMEND THE **FUTURE LAND USE MAP** FROM MIXED USE COMMERCIAL (MC) TO RESIDENTIAL HIGH (RH) FOR PROPERTIES DESCRIBED AS PARCEL 1, SOUTHCLIFF ESTATES, PB-2-45 KEY LARGO, PT. TR. 9-10-11 (14.65 ACRES); PT LINE ROAD (.75 ACRES); PT NE 1.4 of SE 1.4 (5.1 ACRES); PT GOV. LT 3 (.6 ACRES); AND ADJACENT BAYBOTTOM (5.22 ACRES). PARCEL 2, LEGALLY DESCRIBED AS SOUTHCLIFF ESTATES PB2-45 (1.95 ACRES) KEY LARGO, MONROE CONTY, FLORIDA. THE PROPERTY IS LOCATED AT APPROXIMATELY MILE MARKER 95 AND HAS THE REAL ESTATE NUMBERS 00483400.000000 AND 00483390.000000.

WHEREAS, the Monroe County Board of County Commissioners, during a regular meeting held on November 19, 2003, conducted a review and consideration of the request filed by the applicant to amend the Future Land Use Map from Mixed Use Commercial (MC) to Residential High (RH) and;

WHEREAS, the Development Review Committee and staff report recommended **Approval** of this future land use map amendment as indicated in Resolution D25-03; and

WHEREAS, the Planning Commission held a public hearing on September 24, 2003 and recommended **Approval** of the request as indicated in Resolution P67-03; and

WHEREAS, the Board of County Commissioners made the following **Findings of Fact**:

1. The Future Land Use Map of the Monroe County Year 2010 Comprehensive Plan, which took effect on January 4, 1996, followed the land use district boundary and designated a future land use category of Mixed Use Commercial and Residential Medium for the two parcels.
2. The Key Largo Ocean Resort had 285 lawfully established lots available for RV use prior to 1986, which the Growth Management Division opines vests development rights at one residential unit per lot.
3. Without County development approval, the Key Largo Ocean Resort development has incrementally transitioned from a pure RV and trailer park for transient residential uses to a gated park of non-road-ready mobile homes and park model trailers with additions and decks that are not authorized under current RV zoning.

4. **Section 9.5-511 (d) (5) b** of the Monroe County Land Development Regulations requires that the Board of County Commissioners may consider a land use change based on one or more listed factors.
5. In accordance with **Section 9.5-511 (d)(5) b (i and ii)**, the applicant has established that there have been changed assumptions or projections since the 2010 Comprehensive Plan was enacted. The draft LCP Community Master Plan for this planning area, which was not an element of the 2010 Comprehensive Plan when it was adopted in 1993, identifies the need for the sustainability of existing housing units affordable to area residents. The FLUM and Land Use Map change would provide for a continued and essential reservoir of affordable housing for the Tavernier Creek Bridge to Mile Marker 97 planning area residents.
6. In accordance with **Section 9.5-511 (d)(5) b (iv)**, the applicant has established that new issues have emerged. The Board of County Commissioners entered into a Settlement Agreement on June 18, 2003, with Key Largo Ocean Resort to resolve outstanding code enforcement actions, which requires Key Largo Ocean Resort to submit an application for a land use change to **Residential High/URM** for the property and the County to fully consider this land use change.
7. The applicant initiated the land use change application to reclassify the subject property to a land use district and future land use category that would recognize the existing character of the development as a mobile home community, allow for the density of the existing lawfully established units and authorize permits to be issued necessary to bring the property into compliance with the County Code.
8. **Policy 101.4.4** of the Monroe County Year 2010 Comprehensive Plan states that the purpose of the **Residential High** Future Land Use category is to provide for high-density single-family, multi-family, and institutional residential development, including mobile homes and manufactured housing, located near employment centers.
9. **Section 9.5-511** prohibits any map amendments that would negatively impact community character.
10. While the county may recognize one dwelling unit per lot with Key Largo Ocean Resort, it is uncertain whether all of the recreational vehicles can be replaced due to such factors as fire and safety codes, stormwater management, OSR, off-street parking and other development standards.
11. **Objective 101.11** states that Monroe County shall ensure that at the time a development permit is issued, adequate public facilities are available to serve the development at the adopted level of service standards concurrent with the impacts of such development.
12. The **2002 Public Facilities Capacity Assessment Report** indicates that there are no significant concerns regarding impacts on stormwater, however, the Proposed

Development Agreement will need to identify the stormwater runoff onsite. In addition, the proposed development agreement must address the wastewater treatment plant on site which has reached its capacity of 180 units and is not adequately serving the existing 285 units.

13. **Goal 102** of the Monroe County Year 2010 Plan states that Monroe County shall direct future growth to lands which are intrinsically most suitable for development and shall encourage conservation and protection of environmentally sensitive lands.
14. With the proposed tier system, both parcels would be classified as Tier III/ Infill Areas.
15. The proposed map amendment supports **Goal 102**. However, a conservation easement on Parcel 2, dedicating this parcel as open space shall be supported in the proposed Development Agreement; and

WHEREAS, the Board of County Commissioners made the following **Conclusions of Law**:

1. This map amendment meets requirements outlined in **Section 9.5-511(d)(5)b(iv)** of the Monroe County Land Development Regulations.
2. The proposed map amendment supports **Objective 101.11** of the Monroe County Year 2010 Comprehensive Plan based on the findings of the 2002 Public Facilities Capacity Assessment Report and the listed programs on stormwater and wastewater. The Proposed Development agreement will need to identify a plan to satisfy **Objective 901.1**, providing for adequate sanitary wastewater treatment and disposal facilities at the time a development permit is issued.
3. The proposed map amendment is sufficiently consistent with **Goal 102** of the Monroe County Year 2010 Comprehensive Plan.
4. The proposed map amendment is sufficiently consistent with **Policy 101.4.4** of the Monroe County Year 2010 Comprehensive Plan as it is consistent with the purpose of the RH Future Land Use category.
5. The proposed map amendment is sufficiently consistent with **Policy 105.2.1 (3)**, as it will not have a negative impact on environmentally sensitive land and will facilitate redevelopment in a proposed Tier III infill area.
6. The proposed map amendment will not have a negative impact on community character.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:

Section 1. This Board specifically adopts the findings of fact and conclusions of law stated above.

Section 2. The previously described property, which is currently designated Mixed use/ Commercial (MC) shall be designated Residential High (RH) as shown on the attached map, which is hereby incorporated by reference and attached as Attachment One (1).

Section 3. If any section, subsection, sentence, clause, item, change or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 5. This ordinance is hereby transmitted to the state land planning agency for compliance review pursuant to Chapter 163, Florida Statutes.

Section 6. This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance with Chapter 163, Florida Statutes.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the _____ day of _____, A.D., 2004

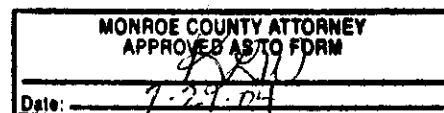
Mayor Murray Nelson
Mayor Pro Tem David Rice
Commissioner Charles "Sonny" McCoy
Commissioner George Neugent
Commissioner Dixie Spehar

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

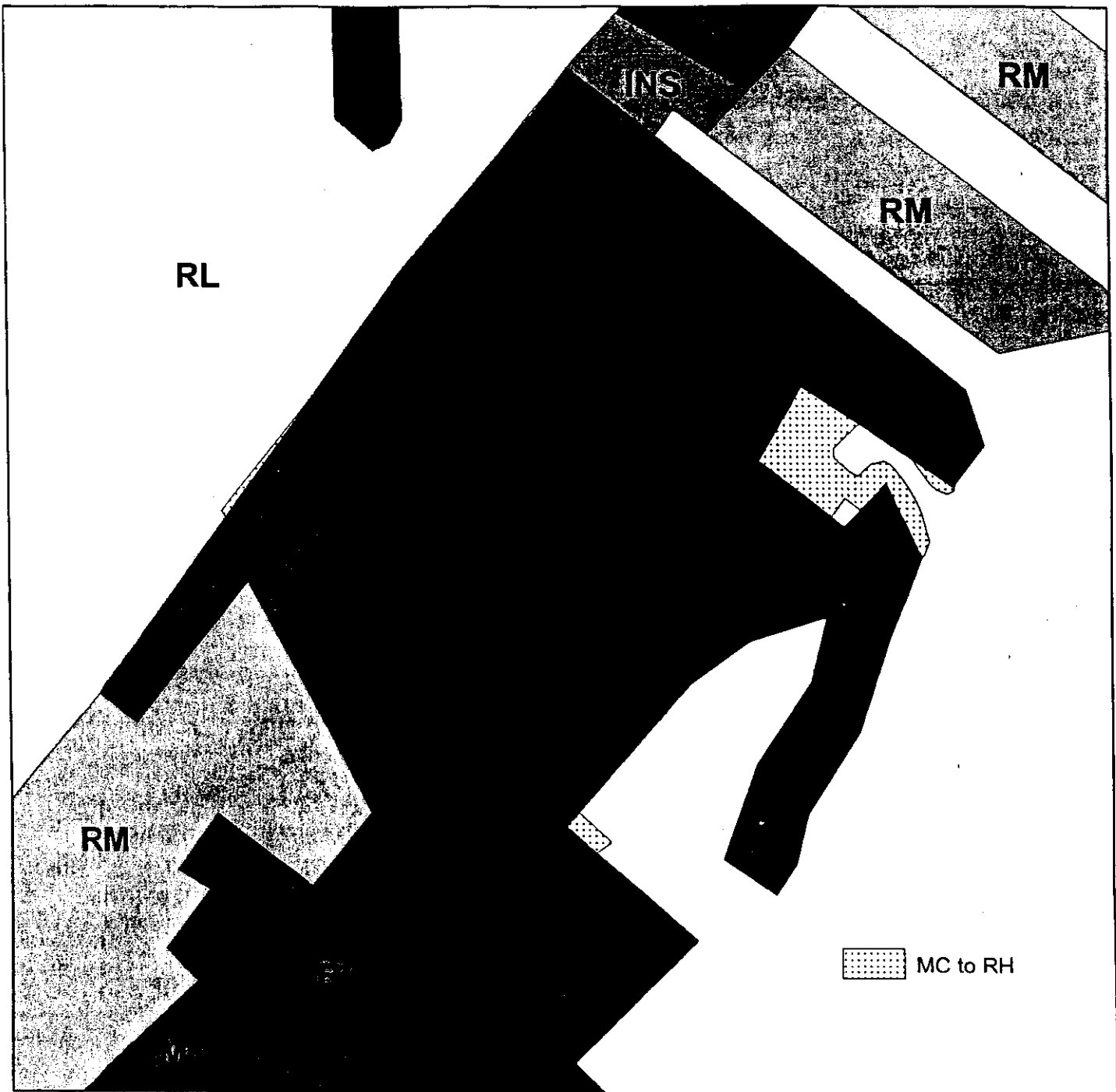
BY _____
Mayor Nelson

(Seal)

ATTEST: DANNY KOHLAGE, CLERK



DEPUTY CLERK



**The Monroe County Year 2010 Comprehensive Plan
Future Land Use Map is proposed to be amended as
indicated above and briefly described as:**

Change Future Land Use District from MC to RH for
RE: 483400 and 483390

Map Amendment # M23061



250

Feet

**BOCC ORDINANCE TO AMEND
LAND USE DISTRICT (ZONING) MAP**

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS **APPROVING** THE REQUEST BY KEY LARGO OCEAN RESORT TO AMEND THE LAND USE (ZONING) DISTRICT MAP FROM RECREATIONAL VEHICLE (RV) AND IMPROVED SUBDIVISION (IS) TO URBAN RESIDENTIAL MOBILE HOME (URM) FOR PROPERTIES DESCRIBED AS SOUTHCLIFF ESTATES, PB-2-45 KEY LARGO, PT. TR. 9-10-11 (14.65 ACRES); PT LINE ROAD (.75 ACRES); PT NE 1.4 of SE 1.4 (5.1 ACRES); PT GOV. LT 3 (.6 ACRES); AND ADJACENT BAYBOTTOM (5.22 ACRES). PARCEL 2, LEGALLY DESCRIBED AS SOUTHCLIFF ESTATES PB2-45 (1.95 ACRES) KEY LARGO, MONROE COUNTY, FLORIDA. THE PROPERTY IS LOCATED AT APPROXIMATELY MILE MARKER 95 AND HAS THE REAL ESTATE NUMBERS 00483400.000000 AND 00483390.000000.

WHEREAS, the Monroe County Board of County Commissioners, during a regular meeting held on November 19, 2003, conducted a review and consideration of the request filed by the applicant to amend the land use district (zoning) map from Recreational Vehicle (RV) and Improved Subdivision (IS) to Urban Residential Mobile Home (URM) and;

WHEREAS, the Development Review Committee and staff report recommended **Approval** of this land use district (zoning) map amendment from RV and IS to URM as indicated in Resolution D24-03; and

WHEREAS, the Planning Commission held a public hearing on September 24, 2003 and recommended **Approval** of the request as indicated in Resolution P68-03; and

WHEREAS, the Board of County Commissioners made the following **Findings of Fact**:

1. The pre-1986 zoning of the subject property was RU-5, RU-1, RU-3 and BU-1.
2. During the 1986 Comprehensive Plan process, the land use districts of the subject property were changed to Recreation Vehicle for Parcel #1 and Improved Subdivision for Parcel #2.
3. The Key Largo Ocean Resort had 285 lawfully established lots available for RV use prior to 1986, which the Growth Management Division opines vests development rights at one residential unit per lot.
4. Without County development approval, the Key Largo Ocean Resort development has incrementally transitioned from a pure RV and trailer park for transient residential uses to a gated park of non-road-ready mobile homes and park model trailers with additions and decks that are not authorized under current RV zoning.

5. The unauthorized improvements to trailers on the property have led to County code enforcement action and legal proceedings in Circuit Court. At the direction of Judge Garcia, the County and the applicant entered into mediation and reached accord on a Settlement Agreement to address the code enforcement issues including the necessity to change the land use designation of the property.
6. **Section 9.5-511 (d) (5) b** of the Monroe County Land Development Regulations requires that the Board of County Commissioners may consider a land use change based on one or more listed factors.
7. In accordance with **Section 9.5-511 (d)(5) b (i and ii)**, the applicant has established that there have been changed assumptions or projections since the 2010 Comprehensive Plan was enacted. The draft LCP Community Master Plan for this planning area, which was not an element of the 2010 Comprehensive Plan when it was adopted in 1993, identifies the need for the sustainability of existing housing units affordable to area residents. The FLUM and Land Use Map change would provide for a continued and essential reservoir of affordable housing for the Tavernier Creek Bridge to Mile Marker 97 planning area residents.
8. In accordance with **Section 9.5-511 (d)(5) b (iv)**, the applicant has established that new issues have emerged. The Board of County Commissioners entered into a Settlement Agreement on June 18, 2003, with Key Largo Ocean Resort to resolve outstanding code enforcement actions, which requires Key Largo Ocean Resort to submit an application for a land use change to **Residential High/URM** for the property and the County to fully consider this land use change.
9. The applicant initiated the land use change application to reclassify the subject property to a land use district and future land use category that would recognize the existing character of the development as a mobile home community, allow for the density of the existing lawfully established units and authorize permits to be issued necessary to bring the property into compliance with the County Code.
10. **Policy 105.2.1 (3)** states that "Infill area (Tier III): any defined geographic area, where a significant portion of land is not characterized as environmentally sensitive as defined by this plan, where existing platted subdivisions are substantially developed, served by complete infrastructure facilities, and within close proximity to established commercial areas, or where a concentration of non-residential uses exists, is to be designated as an Infill Area. New development and redevelopment are to be highly encouraged".
11. **Section 9.5-205** states that the purpose of the Urban Residential Mobile Home District (URM) is to recognize the existence of established mobile home parks and subdivisions, but not to create new such areas, and to provide for such areas to serve as a reservoir of affordable and moderate-cost housing in Monroe County.
12. **Section 9.5-242** indicates that the URM zoning district permits detached mobile homes and detached dwellings of all types, and therefore is the most applicable zoning district for the proposed land use change.

13. **Section 9.5-511** prohibits any map amendments that would negatively impact community character.
14. While the existing intensity at Key Largo Ocean Resort will not increase, the URM designation would not allow any future construction under the current code to be permitted. In addition, seven (7) of the eight (8) structures on the site are considered accessory structures to the primary use. The only commercial structure is the Oceanside Cafe and Marina building. Any illegal improvements at KLOR will eventually have to be removed through the compliance actions to be taken under the proposed development agreement.
15. While the county may recognize one dwelling unit per lot with Key Largo Ocean Resort, it is uncertain whether all of the recreational vehicles can be replaced due to such factors as fire and safety codes, stormwater management, OSR, off-street parking and other development standards.
16. The **2002 Public Facilities Capacity Assessment Report** indicates that there are no significant concerns regarding impacts on stormwater; however, the Proposed Development Agreement will need to identify the stormwater runoff onsite. In addition, the proposed development agreement must address the wastewater treatment plant on site which has reached its capacity of 180 units and is not adequately serving the existing 285 units.
17. **Goal 102** of the Monroe County Year 2010 Plan states that Monroe County shall direct future growth to lands which are intrinsically most suitable for development and shall encourage conservation and protection of environmentally sensitive lands.
18. With the proposed tier system, both parcels would be classified as Tier III/ Infill Areas.
19. The proposed map amendment supports **Goal 102**. However, a conservation easement on Parcel 2, dedicating this parcel as open space shall be supported in the Proposed Development agreement; and

WHEREAS, the Board of County Commissioners made the following **Conclusions of Law**:

1. This text amendment meets the requirements outlined in **Section 9.5-511(d)(5)b(iv)** and the requirements of **Section 9.5-205** of the Monroe County Land Development Regulations.
2. The proposed map amendment is sufficiently consistent with **Goal 102** of the Monroe County Year 2010 Comprehensive Plan.
3. The proposed map amendment is sufficiently consistent with **Policy 105.2.1 (3)**, as it will not have a negative impact on environmentally sensitive land and will facilitate redevelopment in a proposed Tier III infill area.
4. The proposed map amendment will not have a negative impact on community character.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:

Section 1. This Board specifically adopts the findings of fact and conclusions of law stated above.

Section 2. The previously described property, which is currently designated Recreational Vehicle (RV) and Improved Subdivision (IS), shall be designated Urban Residential (URM) as shown on the Land Use District Map, which is hereby incorporated by reference and attached as Exhibit One (1).

Section 3. If any section, subsection, sentence, clause, item, change or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 5. This ordinance is hereby transmitted to the state land planning agency pursuant to the Florida Statutes.

Section 6. This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

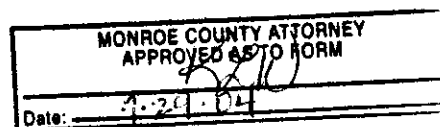
PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the _____ day of _____, A.D., 2004.

Mayor Murray Nelson
Mayor Pro Tem David Rice
Commissioner Charles "Sonny" McCoy
Commissioner George Neugent
Commissioner Dixie Spehar

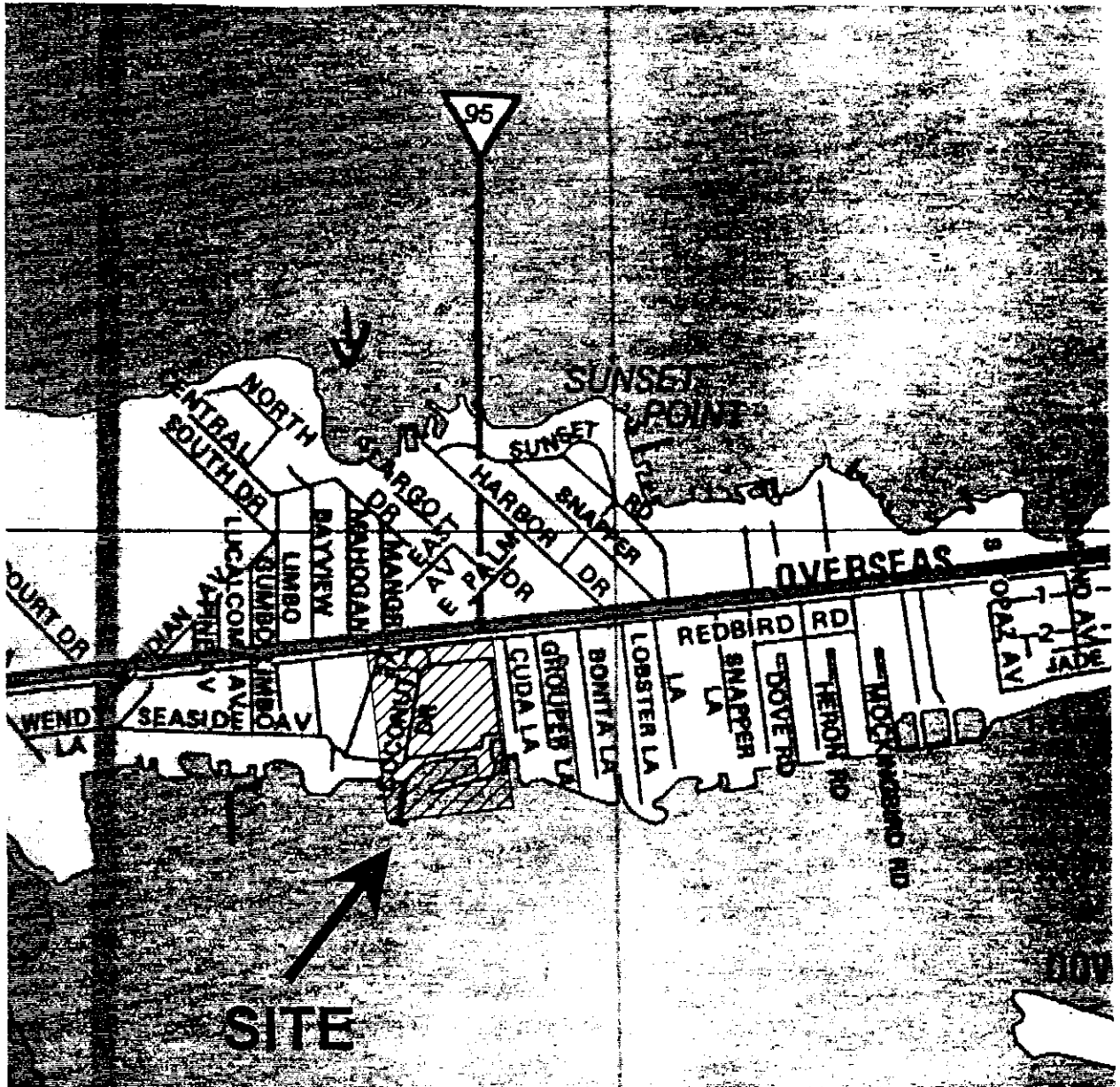
BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY _____
Mayor Nelson

(Seal)



ATTEST: DANNY KOHLAGE, CLERK



Proposed Land Use District Map Amendment: Street Map

Key: Largo

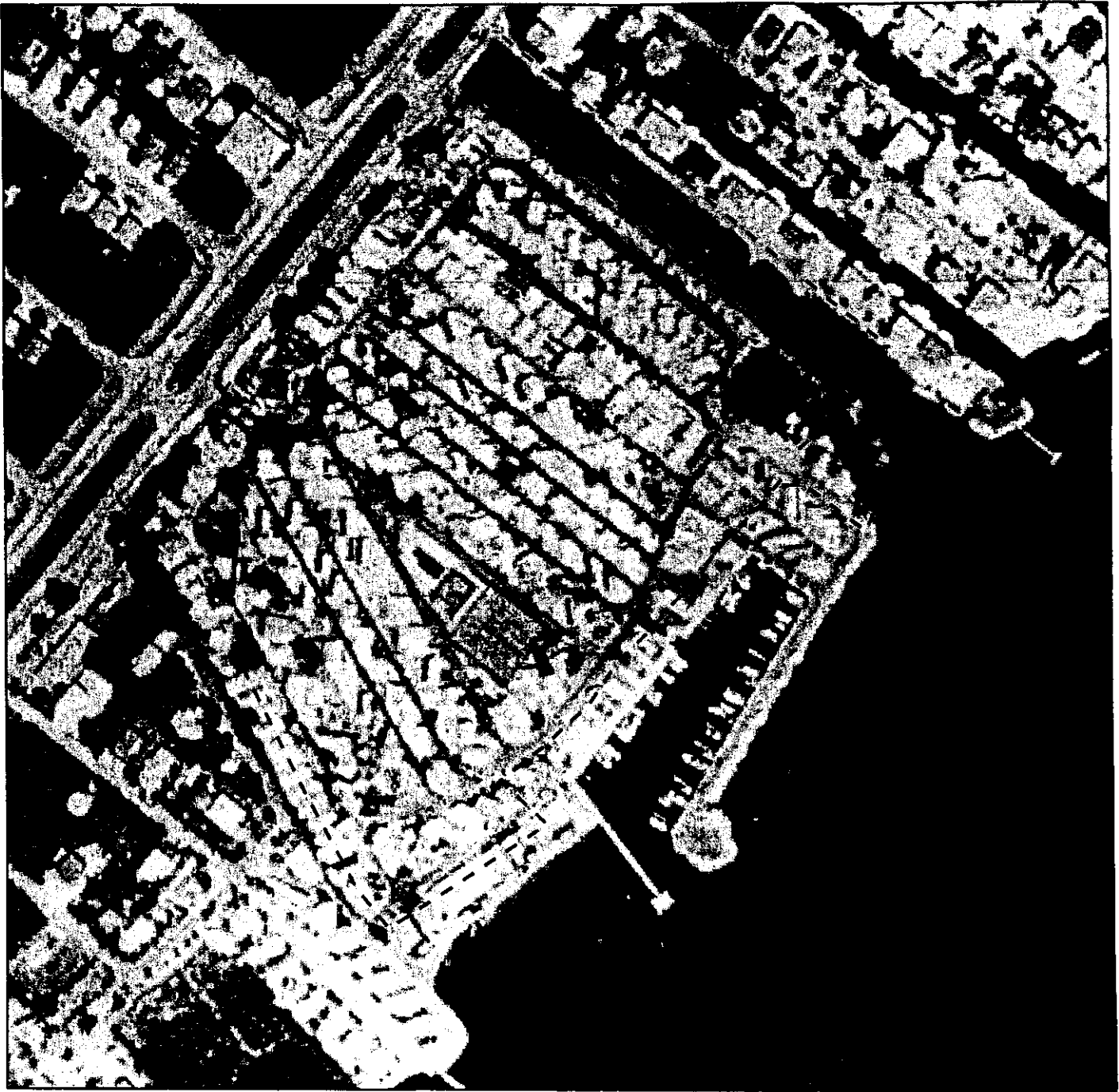
Mile Marker: 95

Proposal: Change Land Use District from RV and IS to

Property Description: RE 483400, 483390

Map Amendment # M23061

Land Use District Map # 145



Proposed Land Use District Map Amendment: Aerial

Key: Largo

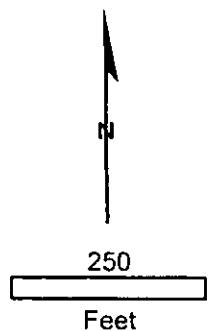
Mile Marker: 95

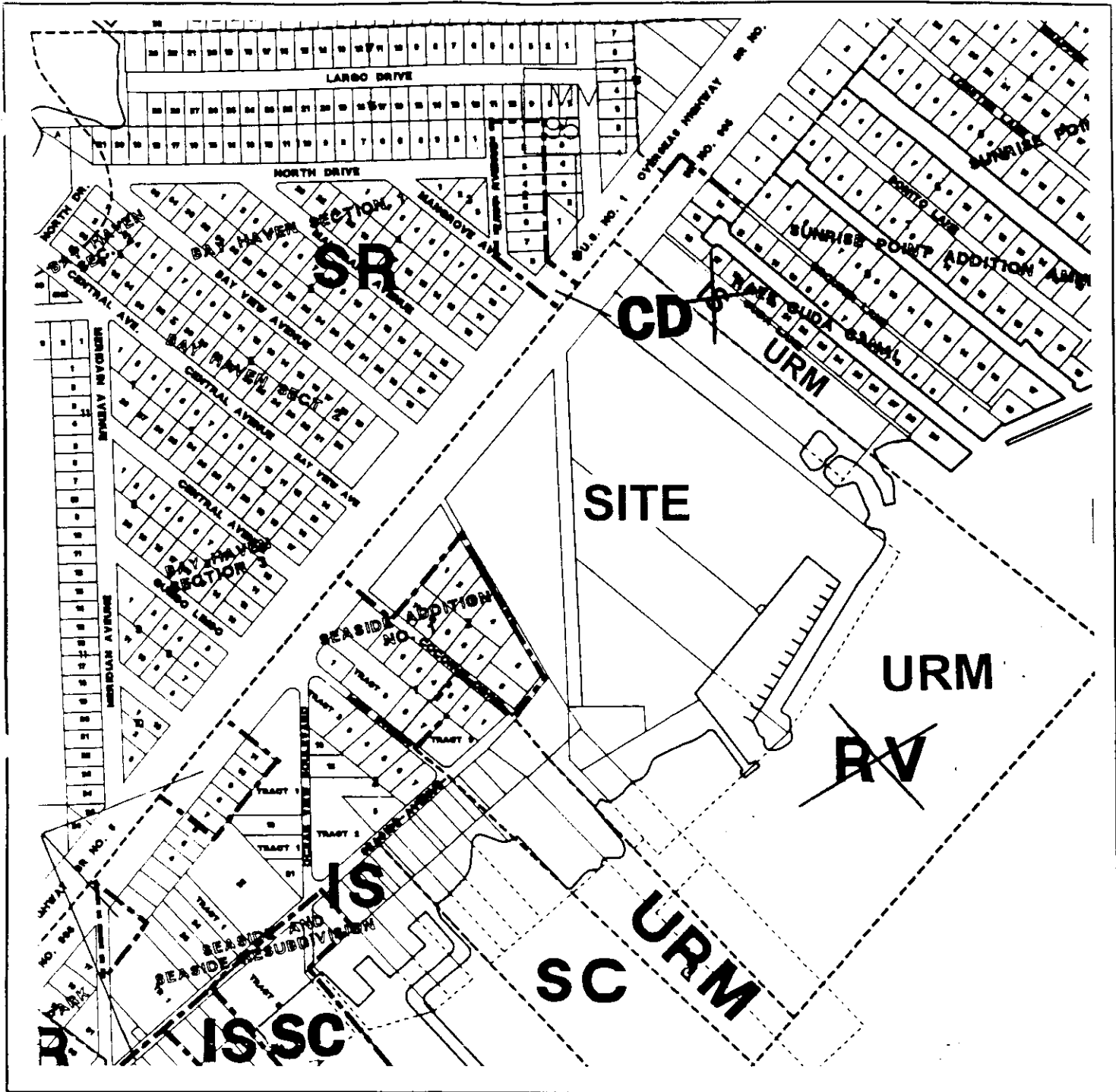
Proposal: Change Land Use District from RV and IS to URM

Property Description: RE 483400 and 483390

Map Amendment # M23061

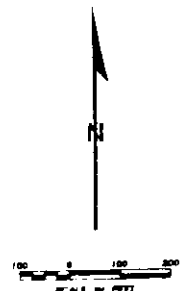
Land Use District Map # 145





The Monroe County Land Use Map is proposed to be amended as indicated above and briefly described as:

Change Land Use District from RV and IS to URM for
RE: 483400, 483390



Transmittal Resolution

RESOLUTION NO 523 -2003

A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TRANSMITTING TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS THE REQUEST BY KEY LARGO OCEAN RESORT TO CHANGE THE FUTURE LAND USE MAP OF THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN FROM MIXED USE/ COMMERCIAL (MC) TO RESIDENTIAL HIGH (RH) FOR PROPERTIES DESCRIBED AS PARCEL 1, SOUTHCLIFF ESTATES, PB-2-45 KEY LARGO, PT. TR. 9-10-11 (14.65 ACRES); PT LINE ROAD (.75 ACRES); PT NE 1.4 OF SE 1.4 (5.1 ACRES); PT GOV. LT 3 (.6 ACRES); AND ADJACENT BAYBOTTOM (5.22 ACRES). PARCEL 2, LEGALLY DESCRIBED AS SOUTHCLIFF ESTATES PB2-45 (1.95 ACRES) KEY LARGO, MONROE CONTY, FLORIDA. THE PROPERTY IS LOCATED AT APPROXIMATELY MILE MARKER 95 AND HAS THE REAL ESTATE NUMBERS 00483400.000000 AND 00483390.000000.

WHEREAS, the Monroe County Board of County Commissioners held a public hearing for the purpose of considering the transmittal to the Florida Department of Community Affairs for review and comment of a proposed amendment to the Future Land Use Map of the Monroe County Year 2010 Comprehensive Plan, changing the future land use designation of the property described above; and

WHEREAS, the Monroe County Department of Planning and Environmental Resources recommends approval of the proposed Future Land Use Map amendment; and

WHEREAS, the Monroe County Board of County Commissioners support the requested Future Land Use Map designation change;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:

Section 1. The Board of County Commissioners does hereby adopt the recommendations of the Monroe County Department of Planning and Environmental Resources pursuant to the draft ordinance for adoption of the proposed Future Land Use Map amendment.

Section 2. The Board of County Commissioners does hereby transmit the proposed amendment as part of the second (2nd) set of comprehensive plan amendments for 2003 to the Florida Department of Community Affairs for review and comment in accordance with the provisions of Chapter 163.3184, Florida Statutes; and

Section 3. The Monroe County staff is given authority to prepare and submit the required transmittal letter and supporting documents for the proposed amendment in accordance with the requirements of 9J-11.006 of the Florida Administrative Code; and

Section 4. The Clerk of the Board is hereby directed to forward a certified copy of this resolution to the Director of Planning.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 19th day of November, 2003.

Mayor Murray E. Nelson	_____ yes
Mayor Pro Tem David P. Rice	_____ yes
Commissioner Charles "Sonny" McCoy	_____ yes
Commissioner George Neugent	_____ not present
Commissioner Dixie Spehar	_____ yes

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY *Dixie M. Spehar*
Mayor/Chairman



ATTEST: DANNY L. KOHLAGE, CLERK

Danny L. Kohlage
Deputy Clerk

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Robert N. Wolfe
ROBERT N. WOLFE
CHIEF ASSISTANT COUNTY ATTORNEY
Date 12-15-03

FILED FOR RECORD
2003 DEC 16 PM 12:41
DANNY L. KOHLAGE
CLK. CR. CL.
MONROE COUNTY, FLA.

BOCC Staff Report

MEMORANDUM

TO: The Board of County Commissioners

FROM: The Planning and Environmental Resources Department

RE: Key Largo Ocean Resorts Co-op, Inc. Zoning and Future Land Use Map Amendment

DATE: November 19, 2003

EXISTING FUTURE LAND USE DESIGNATION: Mixed Use Commercial(MC)

PROPOSED FUTURE LAND USE DESIGNATION: Residential High (RH)

EXISTING ZONING DESIGNATION: Recreational Vehicular (RV)
Improved Subdivision (IS)

PROPOSED ZONING DESIGNATIONS: Urban Residential Mobile Home (URM)

PROPERTY OWNER: Key Largo Ocean Resorts Co-op, Inc.

AGENT: Don Craig, AICP, Planning Consultant

PROPERTY INFORMATION

Key: Key Largo

Size: 20.88 acres

Mile Marker: MM 95, Oceanside

Location Detail & Brief Description:

The site consists of two parcels, extending from US-1 to the ocean. Parcel 1, (RE# 00483400) legally described as Southcliff Estates, PB-2-45 Key Largo, Pt. Tr. 9-10-11 (14.65 acres); Pt Line Road (.75 acres); Pt NE 1.4 of SE 1.4 (5.1 acres); Pt Gov. lt. 3 (.6

acres); and adjacent baybottom (5.22 acres). It consists of a total of 18.93 acres. Parcel 2, (RE# 00483390) legally described as Southcliff Estates PB2-45 Key Largo, is 1.95 acres. All of the existing development exists on Parcel 1 while Parcel 2 is vacant un-platted land.

Existing and Proposed Use: There are 285 un-platted lots with recreational vehicles and mobile homes on Parcel 1. The ownership of the parcel of land is that of a co-op which provides seasonal transient and permanent housing. The dwelling units on this parcel include mobile homes and recreational vehicles, many of which are affixed to foundations and are no longer road ready.

In addition to the lots with residential dwelling units, this gated community also includes accessory commercial uses, a marina, tennis courts, swimming pool, boat ramp, clubhouse, boat trailer parking, a wastewater treatment plant and administrative houses. There is one residential building on the site, which is identified as the manager's residence with 1,056 square feet of floor area. In addition, there are thirteen (13) 40'x5' finger piers with 65 boat slips and several hook-ups located on the docks at the marina. The site includes eight buildings with 9,601 square feet of floor area. Building three (Oceanside Café) is the only structure that is deemed not to be an accessory structure to the resort.

The existing buildings on site include the following:

Building one: Recreation Building: Ground Floor Area: 3,962 square feet
Building two: Maintenance Garage: Ground Floor Area: 368 square feet
Building three: Oceanside Cafe and Marina: Ground Floor Area: 1,521 square feet
Building four: Resort Office: Ground Floor Area: 1,810 square feet
Building five: Bath House: Ground Floor Area: 485 square feet
Building six: Bath House: Ground Floor Area: 485 square feet
Building seven: Bath House: Ground Floor Area: 485 square feet
Building eight: Bath House: Ground Floor Area: 485 square feet

Existing Habitat: Parcel 1 is scarified. Parcel 2 is approximately 1/3 moderate quality hammock near U.S. Highway 1, 1/3 saltmarsh/buttonwood wetlands, and 1/3 shrub mangroves.

Land Use and Habitat on the 1985 Existing Conditions Aerials: The habitat on the 1985 existing conditions map reflects the current status of the two parcels.

Neighboring Land Uses and Character: The resort is surrounded by an Improved Subdivision (IS) residential neighborhood, Sunrise Point Addition, on the northern end. This subdivisions' highway frontage is designated Suburban Commercial (SC) with several commercial businesses. The property to the south is also a residential neighborhood, Seaside Addition, with mixed land use districts, including Urban Residential Mobile Home (URM), and Suburban Commercial (SC), surrounding the subdivision.

The character of the surrounding community is reflective of a mixed use, commercial and residential, with medium to low intensity land uses.

ZONING AND LAND USE HISTORY

Pre-1986 Zoning: There were several zoning districts on these two parcels of land prior to 1986. The largest percentage of the land prior to 1986 was designated as RU5, a mobile home zoning classification. The other zoning districts on these two parcels were RU1, single family residential; RU3, multi-family residential; and BU-1, business.

Prior to the sale of the property from Bryn Marr to Key Largo Ocean Resorts in 1980, the property was utilized as a seasonal transient travel trailer park.

Considerations During the 1986 Comprehensive Plan Process:

During the 1986 Comprehensive Plan process, Parcel 1 was zoned Recreational Vehicle (RV) and parcel 2 was zoned Improved Subdivision (IS).

Considerations During the Year 2010 Comprehensive Plan Process:

During the Year 2010 Comprehensive Plan process, the Future Land Use category Mixed Use Commercial (MC) was applied to Parcel 1 and Parcel 2, which made the FLUM and the land use designations different. Real Estate #000483390.000000 has a Land Use District Designation of Improved Subdivision (IS); however, review of the FLUM indicates a designation of Mixed Use/ Commercial (MC). The 2010 Comprehensive Plan properly classified both parcels; however, over the last twelve years or so the park has gone through a transition from a true RV park to primarily a mobile home park without authorization by the County.

Map Changes or Boundary Considerations Since 1986:

There have been no map or boundary considerations on either of these two parcels since 1986.

ANALYSIS AND RATIONALE FOR CHANGE (Pursuant to Section 9.5-511 (d) (5) b):

Changed Projections or Assumptions: Parcel 1, consisting of 18.33-acres, purchased by Key Largo Ocean Resort in 1980. Key Largo Ocean Resorts has been a resort for both short term and long term visitors and residents since that time. Prior to that, portions of Parcel 1 was owned by Bryn Marr, also a recreational vehicle resort for many years.

The 2010 Comprehensive Plan does not recognize the use of recreational vehicles, either transportable or non-transportable, located in Recreational Vehicle land use designations as permanent affordable housing for area residents. The Community Master Plan for the Livable CommuniKeys Program for this planning area, in its draft form, recognizes that nearly 33 percent of area residents rely on mobile homes and affixed recreational vehicles as a source for housing that is affordable.

In addition, seasonal home-ownership is on the increase in this planning area. U.S. Census reports indicate that this planning area has been impacted by this growing trend by 29 percent since 1990. With the increase of seasonal occupancy, there is a decrease in housing units that are affordable and available to area residents. Key Largo Ocean Resorts, with a URM land use designation, would be able to provide safe and essential housing units that are affordable to area residents.

Section 9.5-205 (Purpose of the Urban Residential Mobile Home (URM) land use district) of the LDR's recognizes that the existence of established mobile home parks and subdivisions serve as a reservoir of affordable and moderate-cost housing in Monroe County. The LCP draft Community Master Plan for this planning area stresses the need for the sustainability of the existing affordable units requiring protection of the existing mobile homes.

While the gated community serves as a home to many weekend visitors, there are also permanent residents who reside in Key Largo Ocean Resort. The draft version of the Livable CommuniKeys Master Plan has identified all of the existing trailer parks as a reservoir of affordable housing for the Tavernier Creek Bridge to Mile Marker 97 planning area.

The FLUM and Land Use Map change would provide for a continued and essential reservoir of affordable housing for the Tavernier Creek Bridge to Mile Marker 97 planning area residents.

Data Errors: None

New Issues: Monroe County Code Enforcement has been issuing citations at the resort for the past 18 years. In October 1994, KLOR was investigated for all possible violations which resulted in the filing of an injunction in 1996 that prohibited Monroe County from pursuing enforcement of any existing violations pending a settlement agreement between the County and KLOR. During this period of time, County Code Enforcement has been actively citing any new violations in the park as they are discovered.

At the request of Circuit Court Judge Garcia, the County entered into mediation with the representatives of KLOR to resolve the outstanding code compliance issues. This mediation resulted in a settlement agreement between the Board of County Commissioners and KLOR Co-op, Inc., dated June 18, 2003.

This settlement agreement that calls for KLOR Co-op, Inc., to apply for a land use change designation for the subject property and to enter into a development agreement with the County to address compliance issues. Although the County has expressed its willingness to consider the rezoning and development agreement, it is under no obligation to do either.

If the land use change is not approved by the County, then the County will go back to court to bring KLOR into compliance as an RV park, which may lead to further extended and costly litigation. However, both the County and KLOR have expressed a willingness to resolve the issue to the mutual satisfaction of both parties, which would be accomplished through a land use change and a development agreement setting the forth actions and a compliance schedule for KLOR.

Recognition of a Need for Additional Detail or Comprehensiveness: None

Data Updates: With the proposed tier system, both parcels would be designated as Tier III.

IMPACT AND POLICY ANALYSIS

Comparison of Development Potential for the Current and Proposed Land Uses:

1. Current Land Development Regulations (LDRs) Parcel 1

Section 9.5-215 states that the purpose of the RV district is to establish areas suitable for the development of destination resorts for recreational vehicles. This district contemplates developments that provide on-site recreational, commercial and resort facilities.

Allowable uses in the Recreational Vehicle land use district pursuant to **Section 9.5-244**, pertinent to the text amendment include:

Uses permitted *as of right* include:

- Recreational Vehicle spaces
- Commercial retail uses of less than 2,500 square feet
- Accessory uses, including permanent owner/employee residential dwelling units

Uses permitted as *minor conditional uses* include:

- Hotels providing less than fifty (50) rooms
- Parks and community parks

Uses permitted as *major conditional uses* include:

- Hotels providing fifty (50) or more rooms
- Marinas

2. Current Land Development Regulations (LDRs) Parcel 2

Section 9.5-213 states that the purpose of the IS district is to accommodate the legally vested residential development rights of the owners of lots in subdivisions that were lawfully established and improved prior to the adoption of this chapter. This district is not intended for new land use districts of this classification within the County.

For the purpose of this section, improved lots are those which are served by a dedicated and accepted existing road of porous or nonporous material, that have a Florida Keys Aqueduct Authority approved potable water supply, and that have sufficient uplands to accommodate the proposed use in accordance with the required setbacks. Although this lot is not platted, but a remnant parcel, the County Growth Management Division would deem it as a platted IS lot for development purposes.

Allowable uses in the Improved Subdivision (IS) land use district pursuant to **Section 9.5-242**, pertinent to the text amendment include:

Uses permitted *as of right* include:

- Detached dwellings of all types
- Home occupations, with a special use permit
- Accessory Uses
- Vacation rentals, if the home owner's or property owner's association expressly regulates or manages vacation rental uses

The **Future Land Use Category** that corresponds to the Recreation Vehicle land use district is Mixed Use Commercial (MC). **Policy 101.4.5** of the Year 2010 Comprehensive Plan states that the principal purpose of the Mixed Use Commercial land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail and office may be permitted at intensities which are consistent with the community character and the natural environment. Employee housing and commercial apartments are also permitted.

The **Future Land Use Category** that corresponds to the Improved Subdivision district is Residential Medium (RM). **Policy 101.4.3** of the Year 2010 Comprehensive Plan states that the principal purpose of the Residential Medium land use category is to recognize those portions of subdivisions that were lawfully established and improved prior to the adoption of the plan and to define improved subdivisions as those lots served by a dedicated and accepting existing roadway, have an approved potable water supply, and have sufficient uplands to accommodate the residential uses.

3. Potential Land uses with Proposed Map Amendment (Both Parcels)

Section 9.5-205 states that the purpose of the Urban Residential Mobile Home District (URM) is to recognize the existence of established mobile home parks and subdivisions, but not to create new such areas, and to provide for such areas to serve as a reservoir of affordable and moderate-cost housing in Monroe County.

Allowable uses in the Urban Residential Mobile Home (URM) land use district pursuant to **Section 9.5-232**, pertinent to the text amendment include:

Uses permitted *as of right* include:

- Mobile homes
- Detached residential dwellings
- Home occupations--Special use permit requiring a public hearing
- Accessory uses
- Tourist housing uses, including vacation rental uses, are prohibited **except in gated communities, which have (a) controlled access and (b) a homeowner's or property owner's association that expressly regulates or manages vacation rental uses.**
- Collocations on existing antenna-supporting structures
- Satellite earth stations
- Wastewater nutrient reduction cluster systems that serve less than ten (10) residences

[Note: The 2010 Comprehensive Plan deleted commercial and marina uses from the URM district; recreational vehicles are only allowed in URM where such uses existed prior to the Comprehensive Plan and were licensed under Chapter 513, Florida Statutes.]

The **Future Land Use Category** that corresponds with the Urban Residential Mobile (URM) land use district is **Residential High (RH)**. The principal purpose of the Residential High category is to provide for high-density single-family, multi-family, and institutional residential development, including mobile homes and manufactured housing, located near employment centers.

Compatibility With Adjacent Land Uses and Effects on Community Character: The Monroe County Land Development Regulations address this issue with **Section 9.5-511** of the LDRs. This prohibits any amendments that would negatively impact community character.

The proposed map amendment will not result in a conflict with the character of the surrounding community based on the following findings:

1. Density and Intensity

In terms of intensity, the proposed land use changes would eliminate the right to develop the site for RV and commercial uses. The proposed changes would only authorize mobile home and detached dwelling units and associated accessory uses. As a gated community, these mobile homes could be used for vacation rental uses.

The maximum allocated density for Recreational Vehicle (RV) is 15 per acre (seasonal, highway ready recreational vehicles), which is a maximum total of 205 RV spaces, and the maximum allocated density for Improved Subdivision is one dwelling unit per lot. Both land use districts have a 20 percent Open Space Ratio (OSR) which is the minimum

allowed in the County Code. The commercial floor area is not considered in the development potential, as it has no intensity limits in the Code, except that no commercial use can be larger than 2,500 square feet.

Section 9.5-268 states that the owners of land upon which a Lawfully establish dwelling unit or a mobile home existed shall be entitled to an allocation of one (1) dwelling unit for each such unit in existence on the effective date of this chapter. As these 285 lots were lawfully established prior to 1986 and each have been available for RV use, the Growth Management Division recognizes each lot as having vested development rights. Therefore, with the proposed URM designation, the County would recognize the right for each lot owner to place a mobile home or dwelling unit on their respective lots, assuming development standards, such as open space, fire and safety codes, stormwater management, off-street parking, and environmental setbacks can be met.

Unless the marina and commercial uses are intended solely for the benefit of KLOR residents and guests, these uses would be non-conforming uses under the proposed change in land use and could not be improved, expanded, and subject to other limitations improvements. If these uses are solely restricted for use by KLOR residents and their guests, they may be considered accessory to the residential uses and possibly may be retained.

Therefore, in all likelihood, the density of the parcel will not increase with any land use change. In fact, both the density and intensity may eventually have to be reduced to bring the development into compliance with the County Code as part of a proposed development agreement with the County.

2. Use Compatibility

The rezoning of the subject properties will provide the applicant a land use classification that is consistent with the current uses of the property. Under a proposed development agreement, it will allow the over density and non-conforming resort, with numerous unpermitted improvements, to come into full compliance with the County's Land Development Regulations to the maximum extent practical.

3. Local Traffic and Parking

The map amendment will have no effect on local traffic as the roads are already in place and the amount of traffic generated by the development will remain essentially the same or be less. The required elevation of many of the mobile homes for floodplain purposes, may help the applicant achieve off-street parking requirements by providing parking area under these elevated structures.

Effects on Natural Resources: Goal 102 of the Year 2010 Comprehensive Plan states that Monroe County shall direct future growth to lands which are intrinsically most suitable for development and shall encourage conservation and protection of environmentally sensitive lands.

Parcel 1 is a scarified lot and development on parcel will have no additional impact on any environmentally sensitive lands; it should be noted that all open spaces required for a tract of land shall be preserved as dedicated open space for each individual habitat type through the use of a conservation easement.

Effects on Public Facilities: Objective 101.11 of the Year 2010 Comprehensive Plan requires the County to direct future growth away from environmentally sensitive land and towards established development areas served by existing public facilities. The proposed land use change supports Objective 101.11 based on the 2002 Public Facilities Capacity Assessment Report and the listed programs on stormwater.

1. Traffic Circulation

The traffic generated by the resort's ingress and egress is via US-1. There is adequate traffic circulation throughout the existing resort.

2. Solid Waste

The existing solid waste haul out contract will provide Monroe County with guaranteed capacity to 2006. The proposed land use change is not expected to have any discernable effect on solid waste generation or removal.

3. Potable Water

The Florida Keys Aqueduct Authority's existing consumptive use permit authorizes the withdrawal of sufficient quantities to meet the demand anticipated for the remainder of 2003. The proposed land use change is not anticipated to have any discernable effect on potable water withdrawals.

4. Stormwater

Section 9.5-293 of the Land Development Regulations requires that all developments retain stormwater on site following Best Management Practices (BMP). Also, pursuant to **Policy 101.1.1**, all projects shall be designed so that the discharges will meet Florida State Water Quality Standards Compliance review for these sections is determined by the South Florida Water Management District, and occurs at the time a development permit has been filed.

5. Wastewater

Policy 901.1.1 requires that at the time a development permit is issued, adequate sanitary wastewater treatment and disposal facilities are available to support the development. Currently, Key Largo Ocean Resort has a FDEP permitted wastewater treatment plant on site for a maximum average monthly flow of 70,000 per day. There is no excess treatment capacity at the plant.

Effects on Redevelopment/Infill Potential: The proposed change in land use designation will provide a means for property owners to secure permits to bring nonconforming uses and structures into compliance with County code.

FINDINGS OF FACT

1. The pre-1986 zoning of the subject property was RU-5, RU-1, RU-3 and BU-1.
2. During the 1986 Comprehensive Plan process, the land use districts of the subject property were changed to Recreation Vehicle for Parcel #1 and Improved Subdivision for Parcel #2.
3. The Future Land Use Map of the Monroe County Year 2010 Comprehensive Plan, which took effect on January 4, 1996, followed the land use district boundary and designated a future land use category of Mixed Use Commercial for the two parcels.
4. The Key Largo Ocean Resort has 285 lawfully established lots available for RV use prior to 1986, which the Growth Management Division opines vests development rights at one residential unit per lot.
5. Without County development approval, the Key Largo Oceans Resort development has incrementally transitioned from a pure RV and trailer park for transient residential uses to a gated park of non-road-ready mobile homes and park model trailers with additions and decks that are not authorized under current RV zoning.
6. The unauthorized improvements to trailers on the property has led to County code enforcement action and legal proceedings in Circuit Court. At the direction of Judge Garcia, the County and the applicant entered into mediation and reached accord on a Settlement Agreement to address the code enforcement issues including the necessity to change the land use designation of the property.
7. **Section 9.5-511 (d) (5) b** of the Monroe County Land Development Regulations requires that the Board of County Commissioners may consider a land use change based on one or more listed factors.
8. In accordance with **Section 9.5-511 (d)(5) b (i and ii)**, the applicant has established that there have been changed assumptions or projections since the 2010 Comprehensive Plan was enacted. The draft LCP Community Master Plan for this planning area, which was not an element of the 2010 Comprehensive Plan when it was adopted in 1993, identifies the need for the sustainability of existing housing units affordable to area residents. The FLUM and Land Use Map change would provide for a continued and essential reservoir of affordable housing for the Tavernier Creek Bridge to Mile Marker 97 planning area residents.

9. In accordance with **Section 9.5-511 (d)(5) b (iv)**, the applicant has established that new issues have emerged. The Board of County Commissioners entered into a Settlement Agreement on June 18, 2003, with KLOR to resolve outstanding code enforcement actions, which requires KLOR to submit an application for a land use change to **Residential High/URM** for the property and the County to fully consider this land use change.
10. The applicant initiated the land use change application to reclassify the subject property to a land use district and future land use category that would recognize the existing character of the development as a mobile home community, allow for the density of the existing lawfully established units and authorize permits to be issued necessary to bring the property into compliance with the County Code.
11. **Policy 101.4.4** of the Monroe County Year 2010 Comprehensive Plan states that the purpose of the **Residential High** Future Land Use category is to provide for high-density single-family, multi-family, and institutional residential development, including mobile homes and manufactured housing, located near employment centers.
12. **Policy 105.2.1 (3)** states that "Infill area (Tier III): any defined geographic area, where a significant portion of land is not characterized as environmentally sensitive as defined by this plan, where existing platted subdivisions are substantially developed, served by complete infrastructure facilities, and within close proximity to established commercial areas, or where a concentration of non-residential uses exists, is to be designated as an Infill Area. New development and redevelopment are to be highly encouraged".
13. **Section 9.5-205** states that the purpose of the Urban Residential Mobile Home District (URM) is to recognize the existence of established mobile home parks and subdivisions, but not to create new such areas, and to provide for such areas to serve as a reservoir of affordable and moderate-cost housing in Monroe County.
14. **Section 9.5-242** indicates that the URM zoning district permits detached mobile homes and detached dwellings of all types, and therefore is the most applicable zoning district for the proposed land use change.
15. **Section 9.5-511** prohibits any map amendments that would negatively impact community character.
16. While the existing intensity at KLOR will not increase, the URM designation would not allow any future construction under the current code to be permitted. In addition, Seven (7) of the eight (8) buildings on the site are considered accessory structures to the primary use. The only commercial structure is the Oceanside Cafe. Any illegal improvements at KLOR will eventually have to be removed through the compliance actions to be taken under the proposed development agreement.

17. While the County may recognize one dwelling unit per lot with Key Largo Ocean Resort, it is uncertain whether all of the recreational vehicles can be replaced due to such factors as fire and safety codes, stormwater management, OSR, off-street parking and other development standards.
18. **Objective 101.11** states that Monroe County shall ensure that at the time a development permit is issued, adequate public facilities are available to serve the development at the adopted level of service standards concurrent with the impacts of such development.
19. The **2002 Public Facilities Capacity Assessment Report** indicate that there are no significant concerns regarding impacts on stormwater, however, the Proposed Development Agreement will need to identify the stormwater runoff onsite. In addition, the Proposed Development Agreement must address the wastewater treatment plant on site which has reached its capacity of 180 units and is not adequately serving the existing 285 units.
20. **Goal 102** of the Monroe County Year 2010 Plan states that Monroe County shall direct future growth to lands which are intrinsically most suitable for development and shall encourage conservation and protection of environmentally sensitive lands.
21. With the proposed tier system, both parcels would be classified as Tier III/ Infill Areas.
22. The proposed map amendment supports **Goal 102**. However, a conservation easement on Parcel 2, dedicating this parcel as open space shall be supported in the Proposed Development Agreement.

CONCLUSIONS OF LAW

1. This text amendment meets requirements outlined in **Section 9.5-511(d)(5)b(i,v)** and the requirements of **Section 9.5-205** of the Monroe County Land Development Regulations.
2. The proposed map amendment supports **Objective 101.11** of the Monroe County Year 2010 Comprehensive Plan based on the findings of the 2002 Public Facilities Capacity Assessment Report and the listed programs on stormwater and wastewater. The Proposed Development Agreement will need to identify a plan to satisfy **Objective 901.1**, providing for adequate sanitary wastewater treatment and disposal facilities at the time a development permit is issued.
3. The proposed map amendment is sufficiently consistent with **Goal 102** of the Monroe County Year 2010 Comprehensive Plan.
4. The proposed map amendment is sufficiently consistent with **Policy 101.4.4** of the Monroe County Year 2010 Comprehensive Plan as it is consistent with the purpose of the RH Future Land Use category.

5. The proposed map amendment is sufficiently consistent with **Policy 105.2.1 (3)**, as it will not have a negative impact on environmentally sensitive land and will facilitate redevelopment in a proposed Tier III infill area.
6. The proposed map amendment will not have a negative impact on community character.

RECOMMENDATION

Based on the Findings of Fact and Conclusions of Law, the Planning and Environmental Resources Department recommends **APPROVAL** to the Board of County Commissioners for the proposed Land Use District Map amendment from Recreational Vehicle (RV) and Improved Subdivision (IS) to Urban Residential Mobile Home (URM) and the proposed Future Land Use Map Amendment from Mixed Use Commercial (MC) and Residential Medium (RM) to Residential High (RH).